

Notice of Allowability

Application No.

10/530,693

Examiner

Marc S. Zimmer

Applicant(s)

MORITA ET AL.

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1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 02/28/07.
2. ☒ The allowed claim(s) is/are 1-3, 5-7 and 10-23.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Allowable Subject Matter

Based on the Examiner's indication that claims 4, 5, 6, 7, and 9 were not rejected over the prior art of record, Applicant has amended claim 1 to include all of the limitations of claim 4 and has introduced new independent claims 10, 13, 17, and 20 containing the subject matter of original claim 1 and also claims 5, 6, 7, and 9 respectively.

Claims 1-3, 5-7, and 10-23 are considered to be allowable. Concerning claim 1, Enami does not provide even a lightly detailed description of the branched component and, thus, while a branched compound adhering to perhaps some of the claim limitations of component may be readily envisaged, it could hardly be stated that the reference fairly teaches component (B). Isshiki et al., while somewhat more descriptive of the branched polysiloxane component also does not fairly teach component (B).

As for claim 10, Isshiki makes cursory mention that the organohydrogensiloxane component may be branched but absolutely does not fairly disclose a branched organohydrogensiloxane having the specified level of aryl group content.

Claims 13 and 17 are not necessarily inherently satisfied by the references. A polyorganosiloxane composition having the stated index of refraction (claim 13) would ostensibly have to contain a fairly high degree of aryl group substitution- in Applicant's examples there is a phenyl ring in every repeat unit of the alkenyl group functionalized polymers- and it is not clear that the polymer components of the composition disclosed by Isshiki have the minimum aryl group content needed to satisfy this limitation. Indeed, the linear alkenyl group-functionalized polysiloxane has at most 40 mol% aryl group

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content. Aryl group substitution is not even mandated of both the linear and branched alkenyl-functional polymers of Enami. The patentability of original claim 7 and, hence, claim 17 was evaluated in the last correspondence.

As an aside, the Examiner wishes to emphasize that the Examiner has assigned the meaning "any orientation that is not linear" to the term "branched". It is believed that this assumption is appropriate insofar as Applicant applies this term even to resinous compounds where there is no clear single central chain. For instance, application example 2, refers to a silsesquioxane bearing silicon-bound hydrogen atoms as branched. In general, silsesquioxanes have a ladder shape or a polyhedral shape where a central backbone is not clearly identifiable. Nevertheless, Applicants are entitled to be their own lexicographer and there is nothing especially repugnant in their characterization.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

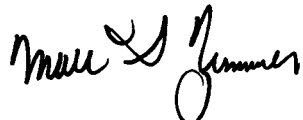
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc S. Zimmer whose telephone number is 571-272-1096. The examiner can normally be reached on Monday-Friday 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 1, 2007


MARC S. ZIMMER
PRIMARY EXAMINER